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National Oceanic Atmospheric Administration
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August 21, 2002

Re: Federal Consistency Energy Review Comments

Dear Mr. Kaiser,

On behalf of Defenders of Wildlife and our over 500,000 members and supporters, we are submitting the following comments on the Advance Notice of Proposed Rulemaking regarding procedural changes to the federal consistency process (67 FR 44407). Specifically, NOAA is "evaluating whether limited and specific procedural changes or guidance to the existing Federal Consistency regulations are needed to improve efficiencies in the Federal Consistency procedures and Secretarial appeals process, particularly for energy development on the Outer Continental Shelf (OCS)." Defenders does not support any changes to the process at this time.

The Coastal Zone Management Act (CZMA) is a critical statute for regulating offshore oil and gas drilling. Most importantly, it gives states the ability to review projects which may have significant environmental impacts in their state. Any federal project with effects on any land or water use or natural resource of the coastal zone is subject to this review by participating states. States can then deny or approve the project based upon consistency with a state's approved Coastal Management Program (CMP).

The importance of this consistency review process cannot be overstated. Although 93% of all projects are approved, the small percentage of denials are based on significant threats to state resources. By limiting this process in any way, the ability of states to protect those resources within their boundaries could be severely hampered. Indeed, the legislative history of the CZMA states that it is "[t]he intent of this legislation to enhance state authority by encouraging and assisting the states to assume planning and regulatory powers over their coastal zone." S. Rep. No. 92-753 (1972) (emphasis added). Any restrictions on this process will diminish state authority, and we do not support amendments to the process at this time.

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